



WILLIAM T FUJIOKA
Chief Executive Officer

County of Los Angeles CHIEF EXECUTIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION
LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://ceo.lacounty.gov>

October 16, 2007

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**DEPARTMENT OF HEALTH SERVICES: AUTHORIZATION FOR
RETROACTIVE PAYMENT FOR SERVICES
(SUPERVISORIAL DISTRICT 2)
(3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Authorize the Director of the Department of Health Services (DHS), or his designee, to: 1) make a retroactive payment of \$440,000 to the California Emergency Physicians Medical Group, Inc. (CEP), for physician services provided at Martin Luther King, Jr.-Harbor Hospital (MLK-H) from June 21, 2007, through August 15, 2007 and 2) make a retroactive payment of \$122,289 to The CBORD Group, Inc. (CBORD), for maintenance and repair services of the security alarm systems at MLK-H and Harbor-UCLA Medical Center (Harbor) from July 1, 2004 through September 30, 2007, both actions are 100 percent net County cost.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of these recommendations will authorize the Director of the DHS to make payments to CEP and CBORD, as discussed further in Attachments I and III.

As we advised your Board in our August 13, 2007 memorandum, we have established a three-member Retroactive Contract Review Committee (RCRC), consisting of staff from Chief Executive Office, as chair, the Auditor-Controller and the Internal Services Department. The role of the RCRC is to review all retroactive requests, including the

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

corrective action plans, prior to their submission to your Board. The RCRC reviewed and discussed with DHS the request for retroactive payments to CEP and CBORD and have approved its submission to your Board.

In the CEP case, the RCRC recognized the need for immediate action by MLK-H in light of the urgent circumstances at the location. DHS appropriately advised your Board of the emergency and immediately addressed the issue at-hand. However, DHS needs to take more timely action in requesting subsequent approval by your Board, in order that appropriate and timely payment can be made. This finding is acknowledged in the Department's corrective action plan to ensure better communication between DHS and MLK-H leadership and DHS Contracts Administration staff.

With regard to CBORD, the corrective actions being taken by the Department include formal action to counsel the MLK-H employee and to document the inappropriate actions. In addition, an intensive contract training program has been developed in collaboration with County Counsel and ISD, and participation will be mandatory for all staff, including executives, managers, and line staff throughout the Department. This training emphasizes the legal authority to enter into contracts and purchase orders, purchase order and contract limitations, and purchasing and contracting processes. The leadership at the Hospitals and their networks, as well as, the Audit and Compliance Division, will reemphasize to staff and management the limits of purchasing authority and contracting requirements.

California Emergency Physicians Medical Group Inc. (CEP)

As part of the MetroCare Plan implementation at MLK-H, DHS executed an Agreement with CEP, as authorized by your Board on November 28, 2006, to provide emergency medical services at MLK-H. At that time, the Agreement specified that these services would be provided by physicians, physician's assistants and/or nurse practitioners and established the rates and expected hours for each position.

As DHS previously reported to your Board (Attachment II is the June 19, 2007, DHS memorandum), on June 12, 2007, the Centers for Medicare and Medicaid Services (CMS) reported to MLK-H its findings of an immediate jeopardy situation during their June 7, 2007, survey of the MLK- Emergency Department. Among the findings was the performance of medical screening examinations by the physician's assistants. As part of the corrective action plan, MLK-H leadership instructed CEP immediately to discontinue the use of physician's assistants for medical screening exams and to have the medical screening examinations performed only by the attending physicians.

As a result of these actions, the costs for services under this contract increased by \$440,000, and the Department is seeking authorization to reimburse CEP for that amount.

The CBORD Group, Inc.

On June 29, 2004, the Board delegated authority to the Director of Health Services to execute a form agreement with Diebold, one of 21 form agreements with various vendors for services previously provided under Purchase Order (PO) effective July 1, 2004 through June 30, 2006. Diebold took exception to certain contract provisions, which included payment issues, indemnification related to copyright and proprietary issues, and the description of services. County Counsel attempted to negotiate a satisfactory resolution, but despite those efforts Diebold refused to sign the Agreement.

In July 2005, CBORD acquired the card systems division of Diebold. In February 2006, CBORD requested payment for services going back to July 2004. In discussions with CBORD, DHS learned that Diebold, later CBORD, had been providing services at MLK-H pursuant to a contract that had been signed without the Board's approval by an unauthorized MLK-H employee in July 2003. CBORD continued providing services in good faith based on the belief that there was a valid contract in place. At the Department's request, County Counsel negotiated a resolution of CBORD's contract issues and CBORD has signed the Agreement with changes negotiated and approved by County Counsel.

To curtail additional retroactivity, the Director of DHS will be requesting authority in a separate Board letter to execute an agreement with CBORD going forward.

FISCAL IMPACT/FINANCING

The total cost of the retroactive CEP Agreement is \$440,000, for the period of June 21, 2007 through August 15, 2007, which reflects the increased use of physician hours, rather than physician's assistants hours at an average increase of almost \$8,000 per day.

The total cost of the retroactive CBORD Agreement is \$122,289, which includes \$121,224 for MLK-H for the period of July 1, 2004 through September 30, 2007 and \$1,065 for Harbor for the period July 1, 2007 through September 30, 2007.

Funding for the retroactive payments are included in the Department's 2007-08 Adopted Budget. No additional net County cost is required.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

On August 13, 2007, in the Board's special session on MLK-H, as part of the recommendations from the Director of Health Services, your Board delegated authority to my office, in collaboration with the Director of Health Services, to amend the existing

Honorable Board of Supervisors
October 16, 2007
Page 4

MetroCare Agreements, as necessary, to implement the DHS Plan for closure of inpatient services and the Emergency Department at MLK-H. Under that delegated authority, an Amendment has been executed for the CEP Agreement to provide for continued services consistent with the Plan approved by your Board. However, given the retroactive nature of these services, we are seeking separate action by your Board to authorize payment.

In August 2006, the Board approved the purchase of CBORD security enhancement equipment and installation services for MLK-H and Harbor, 100 percent offset by Homeland Security funding. Ongoing services for this additional equipment are included in the agreement which will be submitted separately for Board approval.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

CEP is currently providing services, at the Multi-Service Ambulatory Care Center (MLK-MACC) as part of the Department's plan to preserve patient services in the MLK-MACC area. Reimbursement of these costs would recognize the critical nature of these services in providing appropriate care to patients in that area.

CBORD provides maintenance of security services at MLK-MACC and Harbor. Approval of the recommended actions will allow the vendor to be reimbursed for services already provided.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer

WTF:SRH:SAS
DRJ:LT:bjs

Attachments (3)

c: County Counsel
Auditor-Controller
Director and Chief Medical Officer, Department of Health Services
Director, Internal Services Department

**MARTIN LUTHER KING, JR. - HARBOR HOSPITAL TOTAL \$440,000
(MLK-H)**

Vendor Name: California Emergency Physicians Medical Group Inc. (CEP)
Type of Service: Emergency Department Medical Services
Period of Service: June 21, 2007 through August 15, 2007
Retroactive Amount: \$440,000

Background

Beginning December 1, 2006, Martin Luther King, Jr.-Harbor Hospital (MLK-H) outsourced the medical services of its Emergency Department (ED). The ED at MLK-H consisted of the Emergency Room and the Urgent Care Center which were both open on a 24 hours/7days a week/365 days a year basis. As the result of a Request for Information, the County contracted with CEP to perform ED services at MLK-H. The contract required that CEP perform ED services using physicians, physician assistants, and nurse practitioners. CEP utilized fifteen physician assistants, as well as physicians, to perform ED services at MLK-H. While permitted under the Agreement, CEP has not utilized nurse practitioners to provide services.

On June 21, 2007, as a corrective action to findings of the Centers for Medicare and Medicaid Services' (CMS), MLK-H leadership instructed CEP to immediately stop utilizing physician assistants and use physicians only to staff the ED. CEP released their physician assistants that day and began utilizing only physicians in MLK-H's ED at an increased cost to CEP of approximately \$8,000 per day, for a total of \$440,000.

Services

As requested by the Department, CEP changed their staffing configuration at MLK-H's Emergency Department to use physicians only to provide services.

Resolution – Corrective Action

The Department continues to believe that the immediate actions taken were critical and time-sensitive in order to address the CMS findings of immediate jeopardy. However, corrective actions are needed to ensure that matters such as these are presented to the Board of Supervisors in a more timely fashion. Therefore, the Department will re-issue policy guidance to all DHS staff that all instructions to contractors must be consistent with the terms of existing agreements, but in emergency situations where no other no alternatives exist and delays would jeopardize patient care, notification must be made as soon as possible to the Department's Director of Contracts and Grants so that appropriate Board approvals may be obtained.



Health Services

LOS ANGELES COUNTY

June 19, 2007

REVISED

Los Angeles County
Board of Supervisors

Gloria Molina
First District

Yvonne B. Burke
Second District

Zev Yaroslavsky
Third District

Don Knabe
Fourth District

Michael D. Antonovich
Fifth District

Bruce A. Chernof, MD
Director and Chief Medical Officer

John R. Cochran III
Chief Deputy Director

Robert G. Splawn, MD
Senior Medical Director

TO: Each Supervisor

FROM: Bruce A. Chernof, M.D.
Director and Chief Medical OfficerSUBJECT: CORRECTIVE ACTION PLAN FOR IMMEDIATE
JEOPARDY

This is to provide you with a copy of the Plan of Correction submitted last night, as required, to the Centers for Medicare and Medicaid Services (CMS) to address CMS' findings of an immediate jeopardy situation during their survey in the Emergency Department at Martin Luther King Jr. – Harbor Hospital (MLK-H) on June 7, 2007 and reported to the hospital on June 12, 2007.

The basis for the immediate jeopardy finding focused on three main areas that CMS identified:

The first finding involved a patient who required transfer for a neurosurgical condition (neurosurgery is a specialty not available at MLK-H). We have established a transfer process for neurosurgical patients that calls for immediate transfer of patients with specific neurosurgical diagnoses to our other hospitals on a rotating basis. We have also established a monitoring plan to ensure that these transfers occur expeditiously.

The second finding was the performance of medical screening exams by physician's assistants. Although physician's assistants may perform medical screening exams as part of their scope of practice, they must be specifically credentialed for this. CMS' concluded that the credentialing process had not been completed as required under the federal Emergency Medical Treatment and Active Labor Act (EMTALA). As a result of this finding, on June 12, 2007 MLK-H leadership directed California Emergency Physicians (CEP), the emergency department contract group, to immediately discontinue the use of physician's assistants for medical screening exams. These exams will now be performed only by the Emergency Department attending physicians. Additionally, MLK-H has discontinued the use of non-emergency physician's assistants as consultants in the Emergency Department.

313 N. Figueroa Street, Suite 912
Los Angeles, CA 90012

Tel: (213) 240-8101
Fax: (213) 481-0503

www.ladhs.org

*To improve health
through leadership,
service and education.*



www.ladhs.org

The third finding related to the timing of the medical screening exam. CMS found that there were delays in completing medical screening exams for patients presenting to the Emergency Department. To address this deficiency, the leadership in the Emergency Department, Nursing, and Hospital Administration redesigned the process by which patients are seen in the Emergency Department. That redesign includes co-locating nursing and registration staff in the triaging area (the initial point of contact with the patient) with physicians available so that an immediate medical screening can be completed. Further, training was provided to emergency room nurses to ensure that physicians are contacted if management is needed prior to the medical screening exam.

Another important finding was that there were repetitive delays in care related to coordination of services. In each instance, appropriate multidisciplinary interventions have been developed, and implemented with appropriate monitoring put in place. The hospital had previously added an additional hospitalist physician (inpatient doctor) to improve patient care and patient transfers.

These findings are not acceptable and are discouraging in the face of the enormous effort to reform the hospital. They are grave and must be cured or the facility cannot continue to operate. Each citation has a definitive corrective action with close monitoring. We believe that these corrective actions fully address CMS' concerns and that CMS will release the immediate jeopardy finding. We expect CMS to return to the hospital to validate these corrective actions within the next week.

If you have any questions or need additional information, please let me know.

BAC:jrc

Attachment

c: Chief Administrative Officer
County Counsel
Executive Officer, Board of Supervisors

**MARTIN LUTHER KING, JR. – HARBOR HOSPITAL
(MLK-H)****Total \$122,289**

Vendor Name: The CBORD Group, Inc.
 Type of Service: Maintenance and repair of the security alarm systems
 Period of Service: July 1, 2004 through June 30, 2006
 July 1, 2006 through September 30, 2007

| Retroactive Period | Amount | Facility |
|---------------------------|------------------|-------------------|
| 07/01/2004 to 06/30/2006 | \$ 72,878 | MLK-Harbor |
| 07/01/2006 to 06/30/2007 | \$ 38,189 | MLK-Harbor |
| 07/01/2007 to 09/30/2007 | \$ 10,157 | MLK-Harbor |
| 07/01/2007 to 09/30/2007 | \$ 1,065 | Harbor-UCLA M. C. |
| TOTAL | \$122,289 | |

Background

MLK-H had obtained services from Diebold Inc. (Diebold) under a Purchase Order (PO) agreement prior to and through June 30, 2004. When it reached the Purchasing Agent's statutory authority limit, the facility requested Contracts and Grants to proceed with a Board-approved contract. Although on June 29, 2004, the Board delegated authority to the Director of Health Services to execute a form agreement with Diebold, one of 21 form agreements with various vendors for services previously provided under PO. Diebold took exception to certain contract provisions and, despite efforts to negotiate by County Counsel declined to sign the Agreement.

In 2006, CBORD requested payment for services provided under a contract Diebold had with the County. (In June 2005, CBORD had acquired the card systems division of Diebold.) The Department requested CBORD to provide a copy of the referenced agreement. CBORD subsequently provided a copy of a Diebold contract signed (without authorization) by an MLK-H employee. At the Department's request, County Counsel negotiated a resolution of CBORD's contract issues: quarterly up front payment, indemnification related to copyright and proprietary issues, and the description of services. CBORD has signed the Agreement with changes negotiated and approved by County Counsel.

In August 2006, the Board approved the purchase of CBORD security enhancement equipment and installation services for MLK-H and Harbor-UCLA Medical Center, 100% offset by Homeland Security funding. Ongoing services for this additional equipment are included in the agreement which will be submitted for Board approval.

Services

CBORD provides maintenance and repair of the security systems for Martin Luther King, Jr. Multi-service Ambulatory Care Center and Harbor-UCLA including software licenses and hardware to support proprietary security card systems. Under the enhanced hardware support plan, hardware repair including any product improvements and telephone support are provided seven days a week, 24 hours a day. Under the software support plan, software support is also provided seven days a week, 24 hours a day, and includes software corrections and enhancements.

Resolution – Corrective Action

The Chief Executive Officer (CEO) of MLK-H had initiated the discipline process when the employee went out on extended sick leave. The employee recently returned to work and MLK-H's CEO is reinstating appropriate disciplinary action.

The Department will request staff to provide equipment warranty expiration information and PO expiration to the Department's Contracts and Grants Division in a timely manner to ensure service contracts are put in place before off-warranty services are needed.

The Department will re-issue policy guidance to all DHS staff regarding compliance with requirements related to obtaining services and initiate appropriate disciplinary action against personnel who do not comply with requirements.

Management will instruct all procurement and contract staff to immediately elevate to their supervisor any processing issues that would effect the timeliness of a PO or agreement for any requested vendor services. Elevation will include notification of the service area or program office.